

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:11-CR-121-FL-1

UNITED STATES OF AMERICA)	
)	
v.)	ORDER OF DETENTION PENDING
)	TRIAL
CARLOS S. BURNETTE,)	
)	
Defendant.)	

This case came before the court today for hearing on the government's motion, pursuant to 18 U.S.C. § 3142(f), to detain defendant pending trial. The government presented the testimony of an officer with the Raleigh Police Department on an FBI task force. The defendant presented no evidence or argument. The court also reviewed the pretrial services report. After careful consideration pursuant to 18 U.S.C. § 3142(g) of the credible information submitted, and based on the findings and reasons stated below and in open court, the court finds by a preponderance of the evidence that there is no condition or combination of conditions that will reasonably assure defendant's appearance as required, and by clear and convincing evidence that there is no condition or combination of conditions that will reasonably assure the safety of any other person and the community before trial. The government's motion is therefore GRANTED.

Background

Defendant was indicted on 28 April 2011 for the offense of possession of a firearm (*i.e.*, a Romarm, model WASR 10, 7.62 x 39 caliber rifle) and ammunition by a convicted felon on or about 9 December 2010, in violation of 18 U.S.C. §§ 922(g)(1) and 924. The evidence presented at the hearing showed that the charges arise from defendant's participation in the sale of the subject firearm to a confidential source. There is both an audio and video recording of the transaction. At

the time of the alleged offense, defendant had been convicted of a felony. Defendant had powdered cocaine in his possession when arrested on the instant charges on 17 May 2011.

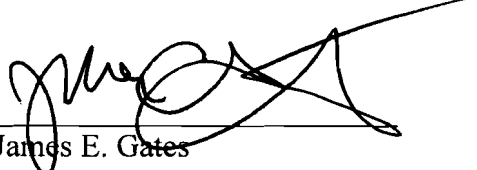
Discussion

The law requires that defendant be detained pending trial based on the following principal findings and reasons: evidence showing that the government has a strong case, including the evidence reviewed above; the gun-related nature of the offense charged; the circumstances of the offense charged, including defendant's being on state probation in two cases at the time of its commission; defendant's criminal record, including his felony (drug) conviction, eight misdemeanor convictions, a formal probation revocation, and multiple probation violations, including absconding from supervision; defendant's apparent addiction to marijuana, cocaine, and possibly alcohol; and, as indicated, the other findings and reasons stated in open court.

Conclusion

IT IS THEREFORE ORDERED that defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

This, the 23rd day of May 2011.


James E. Gates
United States Magistrate Judge